

## **EXHIBIT C**

STATE OF NEW YORK  
SUPREME COURT : COUNTY OF ERIE

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PATRICK KINGSTON

**ANSWER**

Plaintiff

-vs-

Index No.: I-2012-000970

CARDINAL O'HARA HIGH SCHOOL,  
THE DIOCESE OF BUFFALO, N.Y. and  
THE BOYS AND GIRLS CLUB OF THE  
NORTHTOWNS FOUNDATION, INC.

Defendants

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The defendants, CARDINAL O'HARA HIGH SCHOOL and THE DIOCESE OF BUFFALO, N.Y., by their attorneys, CHELUS, HERDZIK, SPEYER & MONTE, P.C., for their answer to the plaintiff's complaint, allege upon information and belief:

1. Deny each and every allegation contained in paragraphs numbered 3, 4, 13, 17, 19, 20, 22, 23, 24, and 25 of the plaintiff's complaint.
2. Deny any knowledge or information sufficient to form a belief as to the allegations contained in paragraphs numbered 5, 6, 7, 8, 9, 10, 11, 12, 14, 15, 16, 18, and 21 of the plaintiff's complaint.
3. Neither admit nor deny the allegations contained in paragraphs numbered 1 of plaintiff's complaint in that same calls for legal conclusions. To the extent that these allegations do not call for legal conclusions, defendants, CARDINAL O'HARA HIGH SCHOOL and THE DIOCESE OF BUFFALO, N.Y., deny knowledge or information as to same.

FOR A DEFENSE PURSUANT TO ARTICLE 14(a) OF  
THE CPLR, THE DEFENDANTS, CARDINAL O'HARA  
HIGH SCHOOL AND THE DIOCESE OF BUFFALO,  
N.Y., ALLEGE:

4. That the plaintiff's, PATRICK KINGSTON, culpable conduct contributed to the happening of the incident/accident.

5. That the plaintiff should be barred from recovering because the incident/accident was the result entirely of plaintiff's, PATRICK KINGSTON, culpable conduct and/or due to the doctrine of assumption of risk by the plaintiff or in the event that the plaintiff is entitled to recover, the damages should be reduced by the amount of plaintiff's, PATRICK KINGSTON culpable conduct including contributory negligence or assumption of risk in the proportion which the culpable conduct attributable to the plaintiff's, PATRICK KINGSTON bears to the culpable conduct which caused the damages.

FOR A DEFENSE AND BY WAY OF A CROSS CLAIM  
AGAINST THE DEFENDANT, THE BOYS AND GIRLS  
CLUB OF THE NORTHTOWNS FOUNDATION, INC.,  
THE DEFENDANTS, CARDINAL O'HARA HIGH  
SCHOOL AND THE DIOCESE OF BUFFALO, N.Y.,  
ALLEGE:

6. That defendants are not aware of any culpable conduct on the part of any of the defendant, THE BOYS AND GIRLS CLUB OF THE NORTHTOWNS FOUNDATION, INC. (hereinafter, " THE BOYS AND GIRLS CLUB") but in the event it is determined that there is culpable conduct, the Court is asked to apply Article 14 of the CPLR.

7. That if these answering defendants, CARDINAL O'HARA HIGH SCHOOL and THE DIOCESE OF BUFFALO, N.Y., are found liable to the plaintiff, PATRICK KINGSTON, they will be entitled to indemnification or contribution or both by and judgment against the remaining defendant for the full amount of said liability or for such proportionate share as represents the amount, degree or kind of negligence attributable to said defendant.

FOR A SEPARATE DEFENSE, THE DEFENDANTS,  
CARDINAL O'HARA HIGH SCHOOL AND THE  
DIOCESE OF BUFFALO, N.Y., ALLEGE UPON  
INFORMATION AND BELIEF:

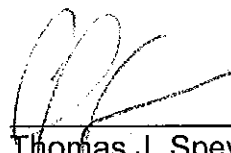
8. That if these answering defendants are found liable as alleged in the complaint, these answering defendants allege that the provisions of CPLR §1601 will apply.

AS AND FOR A SEPARATE DEFENSE,  
DEFENDANTS, CARDINAL O'HARA HIGH SCHOOL  
AND THE DIOCESE OF BUFFALO, N.Y., ALLEGE  
UPON INFORMATION AND BELIEF:

9. In the event that the plaintiff, PATRICK KINGSTON, recovers damages which have been paid or are payable by a collateral source, these answering defendants will seek an offset to such damages pursuant to Article 45 of the CPLR.

WHEREFORE, the defendants, CARDINAL O'HARA HIGH SCHOOL and THE DIOCESE OF BUFFALO, N.Y., demand judgment dismissing the plaintiff's complaint together with the costs and disbursements of this action and demand further that the ultimate rights and responsibilities amongst all the parties be determined in this action and that any judgment against these answering defendants be reduced to the extent the plaintiff's culpable conduct contributed to the damages and that if the defendant BOYS AND GIRLS CLUB is found negligent, the defendants, CARDINAL O'HARA HIGH SCHOOL and THE DIOCESE OF BUFFALO, N.Y., have judgment over against for such proportionate share as represents the amount, degree or kind of negligence attributable to the remaining plaintiff.

DATED: Buffalo, New York  
April 23, 2012



Thomas J. Speyer  
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